

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN JOSEPH CULLEN,

Plaintiff,

-against-

CITIBANK, NA,

Defendant.

No. 21-CV-8428 (CS)

ORDER OF DISMISSAL

CATHY SEIBEL, United States District Judge:

Plaintiff John Joseph Cullen brings this *pro se* action, for which the filing fees have been paid, alleging that Defendant Citibank, NA violated his rights. The Court dismisses the complaint for the reasons set forth below.

STANDARD OF REVIEW

The Court has the authority to dismiss a complaint, even when the plaintiff has paid the filing fee, if it determines that the action is frivolous, *Fitzgerald v. First E. Seventh Tenants Corp.*, 221 F.3d 362, 363-64 (2d Cir. 2000) (*per curiam*) (citing *Pillay v. INS*, 45 F.3d 14, 16-17 (2d Cir. 1995) (*per curiam*) (holding that Court of Appeals has inherent authority to dismiss frivolous appeal)), that it fails to state a claim, *Wachtler v. County of Herkimer*, 35 F.3d 77, 82 (2d Cir. 1994), or that the Court lacks subject matter jurisdiction, *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999). The Court is obliged, however, to construe *pro se* pleadings liberally, *Harris v. Mills*, 572 F.3d 66, 72 (2d Cir. 2009), and interpret them to raise the “strongest [claims] that they suggest,” *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474 (2d Cir. 2006) (cleaned up) (emphasis in original).

A claim is frivolous when it “lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 324-25 (1989), *abrogated on other grounds by Bell Atl. Corp. v.*

Twombly, 550 U.S. 544 (2007); *see also Denton v. Hernandez*, 504 U.S. 25, 32-33 (1992) (holding that “finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible”); *Livingston v. Adirondack Beverage Co.*, 141 F.3d 434, 437 (2d Cir. 1998) (“[A]n action is ‘frivolous’ when either: (1) the factual contentions are clearly baseless . . . ; or (2) the claim is based on an indisputably meritless legal theory.”) (internal quotation marks and citation omitted).

BACKGROUND

Plaintiff John Joseph Cullen, a former Vice President and Trust Officer at Defendant Citibank and now a self-identified “whistle-blower,” brings this action against his former employer. In his “Statement of Claim,” Plaintiff writes,

Theft of my SALES TRACKING SOFTWARE & DATA, Breach of Employment Contract, Breach of our 2008 Non-Disclosure Agreement by NOT providing LAWYER when I was subpoenaed by clients & law enforcement, orchestrating my FALSE ARRESTS on 7/18/19 & 8/9/19, to STOP PUBLICATION BEFORE THE 2020 TRUMP-ELECTION of my 11/10/99 Citibank assigned: **REPORT TO CONGRESS: Hillary’s Citi “GROUP”, Donald’s lying “EARS” Blumenthal, Whistle Blowers Veronica & me!** (ISBN# 978-0-578-19329-8)[.]¹

(ECF No. 1, at 31.)²

Under the heading “Dates of occurrence,” Plaintiff writes,

On 11/10/99 to 1/23/20, by my CitiBANK Superior Officer James J. Carney, SVP, “ORDERED” Trust Office STEVE KORBEL, and me, to DOCUMENT Travelers Solomon Smith Barney R.I.C.O. Citi GROUP CRIMES & COVER-UPS in our Citi BANK Trust Dept, for JAMES CHALMERS HUGHES, IV in our Citi BANK Trust Legal Unit.

¹ Notwithstanding Plaintiff’s “Statement of claim,” the complaint is scattered with references to alleged violations of Plaintiff’s rights under the First, Second, Fourth, Fifth, Sixth, Seventh, and Thirteenth Amendments.

² Page numbers refer to those generated by the court’s electronic filing system. To the extent possible, the Court quotes the complaint verbatim. All emphasis, font, capitalization, and errors are therefore in the original.

(*Id.* at 31.)

The following allegations are taken from the complaint, which is confusing and difficult to follow. In 2007, Plaintiff and his brother “became FALSE CLAIMS ACT – WHISTLE BLOWERS, to the DOL-OSHA & NYAG Andrew Cuomo’s staffs,” requesting that that authorities “investigate TREASONOUS TRAVELERS Solomon Smith Barney Citigroup CRIMES & COVER-UPS in my Citibank Trust Dept.” (*Id.* at 1.)

Plaintiff alleges that he uncovered a scheme whereby,

a few days before Travelers Citigroup’s largest shareholder, Saudi Arabia, attacked America on 9/11/01 TREASONOUS TRAVELORS R.I.C.O. Executives had Hector & Delia barcode 1st Lady Hillary Clinton’s Blind Trust File with its secret passwords, Email addresses, telephone #s, dispositive provisions, etc., and sent its DIGITAL COPY by Internet outside U.S. Jurisdiction, to 1st stop, INDIA, for examination by the National Security Agency, without FISA WARRANTS! Hillary’s file joined the digital copies of 4,600 Citibank, Trust & Estate Files, for America’s richest families STOLEN by TREASONOUS TRAVELORS R.I.C.O. Executives, and sent to 1st stop INDIA. Trust Families, are owed \$1,000,000 each, plus interest for BREACH of TRUST, my boss, Carey said.

(*Id.*)

Plaintiff also discovered

[t]he COVER-UP of the 3/6/96 M-U-R-D-E-R of my predecessor, Huguette Clark’s Citibank Trust Officer, Whistle Blower, JOHN B. BALLANTINE, JR. VP. The day before, he told Trust Officer STEVE KORBEL, and our boss, JAMES J. CAREY, SVP, and me, that Citibank and Don Wallace of the PIRRO LAW FIRM owe \$36,000,000 + interest to the 1926 Huguette Clark Trust f/b/o Corcoran Gallery of Art in Washington, DC.

(*Id.*)

Since January 28, 2008, “I have been WORKING, OFF-THE-BOOKS, for Citibank, against TREASONOUS TRAVELERS as Citibank’s ‘DECOY’ PRO SE – STRAWMAN PLAINTIFF in Federal court cases, Citibank created, which I NEVER STARTED, I NEVER PAID FEES; I NEVER HAD A LAWYER.” (*Id.* at 2.) Plaintiff maintains these cases “were all

HUGHES HOAX so I could continue working until my Citibank retirement date, 3/17/18, Saint Patrick's Day.” (*Id.* at 2.) When Plaintiff

did not get Citibank's 3/5/05 promised RESTATEMENT, BACK PAY, EXPENSES & PROMOTIONS for “**Whistle blowers Veronica & me**”, I paid \$400 for a Federal Court HEARING to settle my BACK-PAY DISPUTE with TREASONOUS TRAVELERS Solomon Smith Barney Citigroup “Citibank.” However, *Democrat* U.S. Attorney Geoffrey Berman, wrote a 9 page brief to OBAMA-BIDEN appointed Judges telling them to “**DENY Whistle Blower Cullen a HEARING**” in **18-CV-6369-(VB)**, and, **19-CV-3934 (NSR)**. Perhaps Berman was fearful the DOJ would be called to explain its 1998 failure to stop TRAVELERS SOLOMON SMITH BARNEY CITIGROUP violation of the 1933 GLASS-STEAGALL BANKING ACT, separating Commercial & Investment banks. Distracted by Monica Lewinsky, DOJ allowed TRAVELERS to illegally take over my Citibank Trust Department, turning it into a Criminal Enterprise.

(*Id.*)

Plaintiff has now written a “Report to Congress” about his experiences at Citibank, which he titled “Hillary's Citi ‘GROUP’, Donald's lying “EARS” Blumenfeld, Whistleblowers Veronica & me (ISBN# 978-0-578-19329-8).” (*Id.*) Much of the complaint details what Plaintiff believes to be a widespread conspiracy to stop publication of this report before the 2020 Presidential Election. For example, “**The Treasonous Travelers Trio and their Morgan Lewis & Bockies lying lawyer, “EARS”**, from Pennsylvania, cross state lines, in chauffeured limousines, to “CONSPIRE” with **TRUMP HATER Manhattan District Attorney Cyrus Vance, Jr.**” (*Id.*) The “conspirators” had Plaintiff “ARRESTED, JAILED & GAGGED” on two separate occasions to prevent publication of Plaintiff's report. (*Id.* at 3.)

Many of Plaintiff's allegations appear to involve actions taken by Manhattan District Attorney Vance in the course of various state court criminal proceedings against Plaintiff. For example, Plaintiff writes,

TRUMP HATER VANCE would not let me question the two DOL-OSHA Agents, Woods & Buoneto, who pushed into my home in Jan. 19, 2018, telling me NOT to do to the DOL-OSHA Office in Westbury, LI on 1/30/18 & DO NOT HAND DELIVERY my Freedom of Information Act (FOIA), request for the

“HOAX” FEDERAL COURT records of DOL-2012-SOX-00023. It was 1 of the 4 Federal cases arranged by Citibank using me as Citibank’s PRO SE “**STRAWMAN PLAINTIFF**” v. Citibank. HUGHES needed more time with the NJ STATE TROOPERS to work on solving who M-U-R-D-E-R-E-D Whistle blower Ballantine on 3/6/96!

(*Id.* at 10.)

Plaintiff also writes,

TRUMP HATER VANCE would not let me tell a JURY about Trust Officer STEVE KORBEL, a witness to the 3/6/96 M-U-R-D-E-R. Steve’s body was found on 5/13/19 at 5:22AM on the Montclair, NJ train tracks, just days after I emailed our co-workers a progress report and new White Plains FEDERAL CASE # 7-19-CV-03934-NSR. It is VERY SUSPICIOUS that HUGHES, CAROLAN & BLUMENFELD were not seen at Steve’s 5/18/19 MEMORIAL SERVICE? Then they had Whistle blower me ARRESTED, JAILED & GAGGED to stop publication before the 2020 TRUMP-BIDEN Election of my [Report to Congress].

(*Id.* at 10-11.)

Plaintiff alleges that the Manhattan District Attorney withheld evidence from Plaintiff’s defense attorney, including, among other items: (1) hundreds of emails sent from Plaintiff to the FBI; (2) “the recorded phone call I made, with the IRISH CODE, to my 11/10/99 Citibank assigned in-house-lawyer, HUGHES, saying it is past 3/17/18, I want to TURN in my part of the updated REPORT to CONGRESS . . . , get paid, and RETIRE!”; and (3) the transcripts of Plaintiff’s “undercover work for Citibank against Travelers” as a “strawman” pro se plaintiff in four federal actions filed by Plaintiff. (*Id.* at 6.)

District Attorney Vance also prevented Plaintiff from confronting or questioning various “witnesses,” including (1) “THE TREASONOUS TRIO who had me ARRESTED, JAILED & GAGGED, twice, to STOP PUBLICATION before the 2020 TRUMP BIDEN election”; (2) “Hazel El***, Veronica’s boss, White Men managers, Ed A. & big Bob F., in Carolan’s BOOM BOOM ROOM on 3/9/07”; (3) former United States Attorney Preet Bharara; (4) U.S. Attorney Mark Misoreck “to discuss his 4/17/18 Fed Court summonses & what he did with the

4/16/18 DRAFT 134 pages of my REPORT . . . , which he took, and would not return, WITHOUT A WARRANT”; (5) “**Congresswoman KATHLEEN RICE** to discuss my 6/1/18 office visit what she did with the 4/16/18 DRAFT 134 pages of my REPORT to CONGRESS”; and (6) “**U.S. Atty Geoffrey Berman** to discuss his 9 page ‘UNBELIEVEABLE’ filing with ‘Judge’ Briccetti in ‘**Cullen v. Citibank 7:18-CV-06369- (VBriccetti)**’ [in which] **Berman told Briccetti to deny (Whistle blower) Cullen a HEARING** (*so Cullen can’t call witnesses to tell about the NSA examining the digital copy of 4,600 Citibank Trust & Estate files of America’s richest families, without FISA Warrants!!![]*)” (*Id.* at 6, 7.)

Plaintiff alleges that as a result of Defendant’s actions, he suffered the following injuries:

I was rushed to White Plains, NY Hospital with Congestive Heart Failure just days before the 2016 Presidential Election, after I realized the FBI and **Democrat** Senator Schumer and **Republican** Congressman Peter King, were NOT GOING TO INVESTIGATE THE 3/6/96 M-U-R-D-E-R and why just days before the 9/11/01 “SAUDI” ATTACK on our AMERICAN HOMELAND, the digital copy of First Lady Hillary Clinton’s Blind Trust File, was sent by internet, outside U.S. Jurisdiction, to first stop INDIA to be examined by the NATIONAL SECURITY AGENCY, WITHOUT F.I.S.A. WARRANTS!

(*Id.* at 32.)

Plaintiff seeks money damages and injunctive relief, including “[r]eturn of all photos Citi GROUP paid CLAUDETTE MAIR to take, at least six times, in 2009, of my family, our home, our cars license plates, etc. to terrorize me into NOT TESTIFYING to Democrat President Obama’s Comptroller of the Currency” and that his “2 FALSE ARRESTS on 7/18 & 8/9/19 be expunged.” (*Id.*)

DISCUSSION

A. The complaint is frivolous

The Court dismisses Plaintiff’s claims as frivolous. Even when read with the “special solicitude” due *pro se* pleadings, *Triestman*, 470 F.3d at 474-75, Plaintiff’s factual allegations of

a massive conspiracy of corporate actors, police officers, state and federal prosecutors, and federal judges seeking to prevent the publication of Plaintiff's report, which itself is based on implausible factual allegations, "rise to level of the irrational [and are] wholly incredible."

Livingston, 141 F.3d at 437. Moreover, there is no legal theory on which Plaintiff can rely. *See Denton*, 504 U.S. at 33. The Court therefore dismisses Plaintiff's claims as frivolous.

District courts generally grant a *pro se* plaintiff an opportunity to amend a complaint to cure its defects, but leave to amend is not required where it would be futile. *See Hill v.*

Curcione, 657 F.3d 116, 123-24 (2d Cir. 2011); *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988). Because the defects in Plaintiff's complaint cannot be cured with an amendment, the Court declines to grant Plaintiff leave to amend and dismisses the action as frivolous.

B. Plaintiff's litigation history and order to show cause

This is not the first frivolous action that Plaintiff has brought in this court. *See Cullen v. Citi Group*, ECF 7:19-CV-3934, 5 (S.D.N.Y. May 14, 2019) (dismissing Plaintiff's claims, arising from events similar to those alleged here, as frivolous); *Cullen v. Citibank*, ECF 7:18-CV-6369, 28 (S.D.N.Y. Sept. 18, 2018) (dismissing the complaint as frivolous); *see also Cullen v. Citibank, N.A.*, ECF 7:08-CV-10317, 46 (S.D.N.Y. Sept. 30, 2011) (dismissing Plaintiff's claims against Citibank for retaliation, age discrimination, defamation, and denial of pension benefits for failure to state a claim).³ In *Cullen*, ECF 7:19-CV-3934, 5, Judge Román warned Plaintiff that continued submission of frivolous actions may result in the imposition of sanctions, including money penalties.

³ The Court gives no credence to Plaintiff's assertion that he only filed this action as part of his "undercover" work as a "Decoy Pro Se Strawman" for Citibank. (*See* ECF No. 1, at 1-2, 6.)

In light of this litigation history, Plaintiff is ordered to show cause why he should not be barred from filing any further actions in this court without first obtaining permission from this court to file his complaint. *See Moates v. Barkley*, 147 F.3d 207, 208 (2d Cir. 1998) (*per curiam*) (“The unequivocal rule in this circuit is that the district court may not impose a filing injunction on a litigant *sua sponte* without providing the litigant with notice and an opportunity to be heard.”). Within thirty days of the date of this order, Plaintiff must submit to this Court a declaration setting forth good cause why the Court should not impose this injunction upon him. If Plaintiff fails to submit a declaration within the time directed, or if Plaintiff’s declaration does not set forth good cause why this injunction should not be entered, he will be barred from filing any further actions in this court, even if he pays the filing fees, unless he first obtains permission from this court to do so.

CONCLUSION

The Court dismisses the complaint as frivolous.

Plaintiff shall have thirty days to show cause by declaration why an order should not be entered barring Plaintiff from filing any future action in this court without prior permission. A declaration form is attached to this order.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket.

SO ORDERED.

Dated: October 22, 2021
White Plains, New York

A handwritten signature in black ink that reads "Cathy Seibel". The signature is written in a cursive, flowing style.

CATHY SEIBEL
United States District Judge